



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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Paper No. 9

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MAY 14 2003

In re Application of : DECISION ON PETITION
Kyo-Yeol Lee : TO WITHDRAW THE
Application No. 10/086,892 : HOLDING OF ABANDONMENT
Filing Date: March 4, 2002 :
Attorney Docket No.: 030681-366 :

This is a decision on the request for withdrawal of holding of abandonment filed on February 6, 2003. It is being treated as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181. There is no fee for this petition.

The petition is GRANTED.

The application was held abandoned for failure to file a proper response to the Office action mailed June 27, 2002. A Notice of Abandonment was mailed on March 24, 2003.

Petitioner asserts that a response was timely filed in the above-identified application on July 23, 2002. To support this assertion, petitioner has submitted a copy of the response and a copy of a return postcard which identifies and acknowledges receipt of the response by the Patent and Trademark Office (PTO) on July 23, 2002.

Although the Serial Number of the application was incorrectly listed as 10/086,092 instead of 10/086,892 on the response, on the postcard and on the transmittal letter, the other information such as the title, filing date, attorney's docket no. and applicant's name is correct. Thus, the incorrect Serial Number is considered a minor error that could have been quickly discovered. See M.P.E.P. § 502.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on July 23, 2002, is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received but lost after receipt thereof.

The copy of the response submitted with the petition on February 6, 2003 is accepted since the response originally submitted is apparently lost.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed March 24, 2003 is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. The application file will then be forwarded to the examiner for prompt appropriate action.

Edward Westin
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Technology Center 2800
Semiconductors, Electrical and Optical
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